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Costa Rica

Country Reports on Human Rights Practices - [2001](#)

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Costa Rica is a longstanding, stable, constitutional democracy with a unicameral Legislative Assembly directly elected in free multiparty elections every 4 years. Miguel Angel Rodriguez of the Social Christian Unity Party (PUSC) won the presidency in the 1998 elections, in which approximately 70 percent of eligible voters cast ballots. The judiciary is generally independent.

The 1949 Constitution abolished the military forces. The Ministry of Public Security—which includes specialized units such as the antidrug police—and the Ministry of the Presidency share responsibility for law enforcement and national security. Several police units are combined within the Ministry of Public Security into a single "public force" that includes the Border Guard, the Rural Guard, and the Civil Guard. Public security forces generally observe procedural safeguards established by law and the Constitution; however, members of these forces occasionally committed human rights abuses.

The population is approximately 3.8 million, and the market economy is based primarily on light industry, tourism, and agriculture. Real gross domestic product (GDP) growth was estimated at 1.7 percent in 2000, compared with 8.3 percent in 1999. The central government deficit was 3 percent of GDP in 2000, compared with 2.2 percent of GDP in 1999. The deficit of the combined public sector, which includes the central government, was 3.8 percent of GDP in 2000 and 3.2 percent of GDP in 1999. Per capita income was \$3,900 in 2000. The Constitution protects the right to private property; however, domestic and foreign property owners encounter considerable difficulty obtaining adequate, timely compensation for lands expropriated for national parks and other purposes. The law grants substantial rights to squatters who invade uncultivated land, regardless of who may hold title to the property.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse; however, there were problems in a few areas. There were some instances of physical abuse by police and prison guards, but reports of police abuse of authority or misconduct decreased during the year. The judicial system processes some criminal cases very slowly, resulting in lengthy pretrial detention for some persons charged with crimes. Domestic violence is a serious problem, and traditional patterns of unequal opportunity for women remain, despite continuing government and media efforts to advocate change. Abuse of children also remains a problem, and child prostitution is a serious problem. Child labor persists.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

The two judicial officers accused in the 1994 murder of farmer Ciro Monge were convicted in 1997, appealed the rulings and lost; one fled the country in 1998 but was captured and returned to serve his sentence in

February 2000. Mauricio Garcia, the third officer accused of the murder, did not appear for his trial in April 2000, but was apprehended later; in May the Cartago criminal court sentenced him to 12 years in prison.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits cruel or degrading treatment and holds invalid any statement obtained through violence, and the authorities generally abide by these prohibitions; however, members of the public forces were responsible for some physical abuse. Reports of police abuse of authority or misconduct decreased during the year. An effective mechanism for lodging and recording complaints of police misconduct exists. The Ombudsman's office serves as a recourse to citizens that have complaints about violations of their civil and human rights and about deficiencies in public and private infrastructure. It investigates complaints and, when appropriate, initiates suits against officials.

The Ombudsman's office received 21 reports of police abuse of authority or misconduct during the year, compared with 52 in 2000, and 14 in 1999. The sharp decline in complaints of police abuse is largely due to the fact that there were a large number of complaints of alleged police brutality in March 2000 associated with the State Electricity and Telecommunications Company (ICE) strike in downtown San Jose (see Sections 2.b. and 6.a.).

A large percentage of Public Security Force police owe their appointments to political patronage. The Rodriguez Administration continued implementation of the 1994 Police Code designed to depoliticize and professionalize the police force, and introduced legislation that became the Law for Strengthening the Civilian Police, which took effect on March 23. The new law amends the Police Code to replace military ranks with civilian titles, codifies a danger pay provision based on 18 percent of the base salary for officers, and establishes a promotion system linked to officers' educational attainment. It also requires the police academy to develop a course and diploma in police administration that includes material on the fundamental and universal principles of human rights. Finally, the law attempts to ensure that police officials are not dismissed due to a change in administrations. Excluded from this rule of employment continuity are policy-level officials such as ministers, vice ministers, their advisers, and general directors of each public security force section. The Government's long-term plan is to establish permanent, professional cadres, eventually resulting in a nonpolitically appointed career force.

Prison conditions are considered generally fair, and they generally meet international standards. Prisoners generally receive humane treatment. Prisoners are separated by sex and by level of security (minimum, medium, and maximum). Most but not all pretrial detainees are held separately from convicted prisoners. As of August 2000, the Ombudsman's office had received two complaints of physical abuse of prisoners by guards, and four complaints of psychological abuse; compared with six complaints of physical abuse and six complaints of psychological abuse in all of 1999. The Ombudsman's office investigates complaints and refers serious cases of abuse to the public prosecutor. Illegal narcotics are readily available in the prisons, and drug use is common.

Penitentiary overcrowding remains a problem. The National Criminology Institute of the Ministry of Justice reported a total prison population of 11,858 in November, with an overpopulation of 839 prisoners. Although prison overcrowding decreased from 163 percent to 15 percent between 1992 and 2001, there remains severe overcrowding in several small jails. In November the Ministry of Justice reported an overpopulation rate of 43 percent at the women's prison, 90 percent at Liberia, 87 percent at Heredia, 42 percent at Limon, 38 percent at Perez Zeledon, and 35 percent at Puntarenas.

In 1996 the Supreme Court's Constitutional Chamber issued an order to the San Sebastian detention facility in San Jose, giving the institution 1 year to achieve minimally acceptable conditions for its prisoners. In August 2000, that court declared that no additional prisoners would be admitted to the San Sebastian prison until it met the U.N. minimum standards for the treatment of the imprisoned. As of November, the San Sebastian prison population was 27 percent over its capacity of 490.

The Ministry of Justice responded to the issue of prison overcrowding and the treatment of prisoners by calling for more funds for prison expansion. Five additional facilities have been opened and three have been undergoing renovation since 1999 as part of this plan. The Government also approved the budget for a series of detention facilities in outlying provinces, which are expected both to reduce overcrowding and to locate prisoners closer to their families. During the year, the Government built a new facility in Guacimo and

expanded facilities in San Carlos and Cartago. Physical plant improvements completed in October at San Sebastian have contributed to a safer and healthier environment with more modern medical and educational facilities.

Female prisoners are held separately in conditions that generally are considered fair; however, in November the women's prison held 43 percent more inmates than its intended capacity. Juveniles are held in separate detention facilities in campus-like conditions that generally are considered good.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The Constitution and law prohibit arbitrary arrest and detention, and the Government generally respects these prohibitions in practice.

The law requires issuance of judicial warrants before making arrests. The Constitution entitles a detainee to a judicial determination of the legality of the detention during arraignment before a court officer within 24 hours of arrest. The authorities generally respect these rights.

The law provides for the right to bail, and the authorities observe it in practice. Generally, the authorities do not hold detainees incommunicado. With judicial authorization, the authorities may hold suspects for 48 hours after arrest or, under special circumstances, for up to 10 days. According to the National Criminology Institute, in November there were 1,748 persons in pretrial detention, representing 27 percent of the prison population.

The Constitution bars exile as punishment, and it is not used.

e. Denial of Fair Public Trial

The Constitution and law provide for an independent judiciary, and the Government generally respects this provision in practice. The Constitution provides for the right to a fair trial, and an independent judiciary vigorously enforces this right.

The Supreme Court supervises the work of the lower courts, known as tribunals. The Legislative Assembly elects the 22 Supreme Court magistrates to 8-year terms, subject to automatic renewal unless the Assembly decides otherwise by a two-thirds majority. Accused persons may select attorneys to represent them, and the law provides for access to counsel at state expense for the indigent.

Persons accused of serious offenses and held without bail sometimes remain in pretrial custody for long periods (see Section 1.d.). Lengthy legal procedures, numerous appeals, and large numbers of detainees cause delays and case backlogs.

There were no new reports of political prisoners. However, one individual was jailed for committing crimes against the State (politically motivated acts of violence) in the 1980's. The human rights group Families for the Defense of Political Prisoners and Human Rights considers this person to be a political prisoner. The Government contends that this individual, who was in a furlough program at year's end, was sentenced for three murders and is not a political prisoner.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such practices; government authorities generally respect these prohibitions; and violations are subject to effective legal sanction. The law requires judicial warrants to search private homes. Judges may approve the use of wiretaps in limited circumstances, primarily to combat narcotics trafficking. On December 12, the President signed a new law that permits wiretapping in investigations of genocide, homicide, procurement of minors, production of pornography, smuggling of minors, corruption of minors, trafficking in the organs of minors, and international crimes. The latter category includes acts directed by international criminal organizations involved in terrorism, kidnapping, and trafficking in slaves, women, children, or narcotics.

The law grants considerable rights to squatters who invade uncultivated land, regardless of who may hold title to the property. Irregular enforcement of property rights and duplicate registrations of title have damaged the real property interests of many who believe they hold legitimate title to land. Landowners throughout the country have suffered frequent squatter invasions for years. The incidence of squatter invasions had increased

in 1999 in anticipation of the land tenure regularization. During 2000, the Government removed 230 families without reports of protests or violence. However, on July 20, the Government removed 400 families from a Standard Fruit Company property in Rio Frio, involving use of tear gas by police and gunfire by some of the squatters. The Red Cross reported that in the aftermath it treated 38 individuals, including 5 policemen and 8 squatters. According to the Ministry of Public Security, one squatter who was injured by tear gas later died from an illness unrelated to the tear gas exposure.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice. An independent press, a generally effective judiciary, and a functioning democratic political system together ensure freedom of speech and of the press.

There are 6 major privately owned newspapers, several periodicals, 1 government and 2 privately owned television stations, and 1 government and over 90 privately owned radio stations, all of which pursue independent editorial policies.

A 1996 "right of response" law provides persons criticized in the media with an opportunity to reply with equal attention and at equal length. Print and electronic media continued to criticize public figures; however, media managers have found it difficult to comply with provisions of this law. The Penal Code outlines a series of "insult laws" that establish criminal penalties of up to 3 years in prison for those convicted of "insulting the honor or decorum of a public official." The law also identifies defamation, libel, slander, and calumny as offenses against a person's honor that can carry criminal penalties. The Inter-American Press Association and the World Press Freedom Committee assert that such laws have the effect of restricting reporting by the media, and that they wrongly provide public officials with a shield from public scrutiny by citizens and the press.

The unsolved murder on July 7 of popular radio host Parmenio Medina led to considerable public debate on press freedoms and renewed attention to legislative proposals aimed at easing media restrictions. The murder followed heightened attention to limitations on the press subsequent to a decision by the Inter-American Court of Human Rights on May 23 that suspended a 1999 sentence against major daily newspaper La Nacion and its journalist for violations of the Law of False Accusations. The Legislative Assembly responded by incorporating three existing and two new legislative proposals addressing press freedoms into one bill. It contains provisions that would require the press to provide more definite proof confirming reported material; allow the press to cite and publish material attributed to third parties without punitive measures; dismantle existing "insult" laws; and require proof of malicious intent when litigating against media sources. The revisions include changes to constitutional provisions, laws, penal, and electoral codes. The Assembly created a committee to study the different proposals, but at year's end, the bill was still with the committee.

The Office of Control of Public Spectacles rates films and has the authority to restrict or prohibit their showing; it has similar powers over television programs and stage plays. Nonetheless, a wide range of foreign films is available to the public. A tribunal reviews appeals of the office's actions.

The Government does not restrict access to the Internet.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for these rights, and the Government generally respects them in practice.

In March 2000, public sector employees, students, taxi drivers, and other workers called a general strike that lasted several days to protest the passage of legislation that would partially open the electrical company to private participation. The police disbanded the protests with tear gas and riot gear, which drew complaints of abuse and police brutality. In response to a suit, the Constitutional Court found that the police response violated participants' free speech rights and directed the Government to pay punitive damages to the plaintiffs.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respects this right in practice. The Constitution establishes Roman Catholicism as the state religion; however, it also prohibits the State from

impeding the free exercise of other religions "that do not impugn universal morality or proper behavior." Members of all faiths freely practice their religion without government interference. The law grants the Catholic Church tax-free status and allows for the Government to provide land to the Catholic Church. Religious education teachers in public schools must be certified by the Roman Catholic Church Conference, which does not certify teachers from other denominations or faiths. Denominational and nondenominational private schools are free to offer any religious instruction they see fit. Foreign missionaries and clergy of all faiths work and proselytize freely.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government respects them in practice. There are no restrictions on travel within the country, on emigration, or on the right of return.

There is a long tradition of providing refuge to persons from other countries. The law provides for granting asylum or refugee status in accordance with the standards of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has admitted 7,673 persons as refugees under terms of the convention as of December 31. The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government makes a distinction between political asylum and refugee status. The issue of the provision of first asylum did not arise. The UNHCR reported that the Government received 5,183 requests for asylum during the year. The Constitution specifically prohibits repatriation of anyone subject to potential persecution, and there were no reports of the forced return of persons to a country where they feared persecution.

The authorities regularly repatriate undocumented Nicaraguans, most of whom enter the country primarily for economic reasons. However, following Hurricane Mitch in 1998, the Government announced a program of general amnesty for all Nicaraguans, Hondurans, and Salvadorans in the country prior to November 9, 1998. By year's end, 213,037 Nicaraguans had qualified for and received legal resident status, most of them under this government amnesty program. According to the General Directorate of Migration, the Government deported 54,486 Nicaraguans during the year.

Immigration officials reported that 3,722 Colombians were resident at the end of the year. The majority enter in legal visitor status and apply for residence. According to the UNHCR, 1,389 Colombians requested refugee status in 2000, and this figure increased to 5,018 during the year. Colombians with refugee status numbered 2,636 on December 31; 2,126 were granted this status during the year. These figures do not include other kinds of recognitions, namely for family reunification. Those who seek temporary refugee status are expected to return to their country of origin once the period of conflict ends in their country.

Allegations of abuse by the Border Guard periodically arise. Although instances of physical abuse appear to have declined, there continued to be credible reports of extortion of migrants by border officials.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through free and fair elections held on the basis of universal suffrage and by secret ballot every 4 years. The independent Supreme Electoral Tribunal ensures the integrity of elections, and the authorities and citizens respect election results. The Constitution bars the President from seeking reelection, and Assembly members may seek reelection only after at least one term out of office. In September 2000, the constitutional provision regarding presidential reelection was challenged when former President Oscar Arias petitioned to be allowed to participate in the 2002 election. Both the Legislative Assembly and the Constitutional Chamber denied his request. In December the Inter-American Commission on Human Rights (IACHR) decided not to accept a complaint against the Government alleging that the ban on presidential reelection constitutes an infringement of citizens' electoral rights.

In the 1998 elections, President Rodriguez's PUSC party won a plurality in the Legislative Assembly, winning 27 of 57 seats. The National Liberation Party (PLN) won 23 seats, the Democratic Force won 3 seats, and 4 minor parties--the Labor Action, National Integration, Costa Rican Renovation, and Libertarian Movement parties--each won 1 seat.

Women encounter no legal impediments to their participation in politics; however, the percentage of women in government and politics does not correspond to their percentage in the population. Nonetheless, women are represented increasingly in leadership positions in the Government and political parties. In 1998 the PUSC mandated that a minimum of 40 percent of posts in party councils be occupied by women. The Supreme Electoral Tribunal is attempting to increase women's representation in the government, requiring that a

minimum of 40 percent of candidates for elective office be female and that women's names be placed accordingly on the ballots by party slate. Both vice presidents (who are also cabinet members), the Minister of Justice, the Minister of Women's Affairs, and 11 legislative assembly deputies are women. Mireya Hernandez, leader of the PLN, the principal opposition party, is also a woman. Former Assembly Deputy Sandra Pizsk served as Ombudsman and is the PLN candidate for Second Vice President in the 2002 elections. Lineth Saborio resigned as Director General of the Judicial Investigations Organization to run for office as the PUSC's candidate for First Vice President. The Foundation of Women Parliamentarians of Costa Rica promotes women's involvement in politics through informational meetings and public awareness campaigns and also works for a number of social objectives, including the decentralization of government.

Indigenous people may participate freely in politics and government; however, in practice, they have not played significant roles in these areas, except on issues directly affecting their welfare, largely because of their relatively small numbers and physical isolation. They account for about 1 percent of the population, and their approximately 20,000 votes constitute an important swing vote in national elections. None of the 57 members of the Legislative Assembly identifies himself as indigenous. There are two Afro-Caribbean members in the Assembly; both represent the Caribbean province of Limon. The country's 100,000 Afro-Caribbeans, who mostly reside in that province, enjoy full rights of citizenship, including the protection of laws against racial discrimination.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Various human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are cooperative and responsive to their views. The Costa Rican Commission for Human Rights, the Commission for the Defense of Human Rights in Central America, and the Family and Friends of Political Prisoners of Costa Rica monitor and report on human rights, as does the Ombudsman's office.

The Legislative Assembly elects the Ombudsman for a 4-year, renewable term. The Ombudsman's office is part of the legislative branch, ensuring a high degree of independence from the executive branch. The law provides for the functional, administrative, and judicial independence of the Ombudsman's office.

Several international organizations concerned with human rights, including the Inter-American Institute for Human Rights and the Inter-American Court of Human Rights, are located in San Jose.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution provides that all persons are equal before the law, and the Government generally respects these provisions.

Women

The Government has identified domestic violence against women and children as a serious societal problem. According to data compiled by the judicial branch in 2000, 32,646 reports of domestic abuse were received--6,209 more than in 1999; however, 70 percent of the cases were dropped because the women decided not to pursue prosecution. The 1996 Law Against Domestic Violence establishes precautionary measures to help victims. During the year, the Legislative Assembly considered a Bill to Qualify Violence Against Women as a Crime. This bill would classify certain acts of domestic violence as crimes and mandate their prosecution whether or not the victim pursues charges against the perpetrator. In December the Assembly approved the bill in first debate, but it had not become law by year's end. An old law permitted a judge to pardon a man accused of statutory rape if the perpetrator intends to marry the victim, she and her family acquiesce, and the National Institute for Children does not object; however, an August 1999 reform to the Penal Code rendered this article void. The authorities have incorporated training on handling domestic violence cases into the basic training course for new police personnel. The domestic violence law requires public hospitals to report cases of domestic violence against women. It also denies the perpetrator possession of the family home in favor of the victim. Television coverage of this issue has increased in news reporting, public service announcements, and feature programs. Reports of violence against women have increased, possibly reflecting a greater willingness of victims to report abuses rather than an actual increase in instances of violence against women. The public prosecutor, police, and the Ombudsman all have offices dedicated to this problem. The law against sexual harassment in the workplace and educational institutions seeks to prevent and punish sexual harassment in those environments.

Prostitution is legal for persons over the age of 18. The Penal Code prohibits individuals from promoting or

facilitating the prostitution of individuals of either sex, independent of the individual's age, and the penalty is increased if the victim is an individual under the age of 18.

The prohibition against trafficking in women for the purpose of prostitution was strengthened by a statute that went into effect in August 1999, although trafficking is a problem (see Section 6.f.).

According to the 2000 census, women constitute 49.6 percent of the population. In 1998 President Rodriguez created the office of Minister of Women's Affairs, who also heads the National Institute for Women, an autonomous institution dedicated to gender equity. The 1990 Law for the Promotion of the Social Equality of Women prohibits discrimination against women and obligates the Government to promote political, economic, social, and cultural equality. In 1996 the Government's National Center for the Development of Women and the Family presented its 3-year National Plan for Equality of Opportunity between Women and Men; the plan is still being implemented. The plan is based on the Platform for Action adopted at the Fourth World Conference on Women in Beijing in 1995. As part of the plan, the Government established an office for gender issues in the Ministry of Labor; similar offices are planned in two other ministries.

According to the U.N. Development Program, women over age 15 represent 36.6 percent of the labor force. Most women (76 percent) work in the service sector, with the remainder working in industry (17 percent) and agriculture (6 percent). Women occupy 45 percent of professional and technical positions, and 30 percent of legislative, senior official, and managerial positions. The Constitution and Labor Code require that women and men receive equal pay for equal work; however, the estimated earned income for women is approximately 35 percent of the earned income for men, \$4,518 and \$13,080 respectively.

Children

The Government is committed to children's rights and welfare through well-funded systems of public education and medical care. The law requires 6 years of primary and 3 years of secondary education for all children. There is no difference in the treatment of girls and boys in education or in health care services. In 1998 the Legislative Assembly passed a constitutional amendment increasing spending on education from 4 percent to 6 percent of GDP. The country has a high rate of literacy (95 percent) and a low rate of infant mortality (10 persons per 1,000). The Government spends over 5 percent of GDP on medical care. The autonomous National Institute for Children (PANI) oversees implementation of the Government's programs for children.

In recent years, the PANI has increased public awareness of abuse of children, which remains a problem. From January to June, the Institute intervened in 3,640 cases of abandonment (compared with 3,704 cases in the first 6 months of 2000), 1,246 cases of physical abuse (compared with 1,013), 573 cases of sexual abuse (compared with 536), and 941 cases of psychological abuse (compared with 885) of children. The PANI attributed the increase in cases reported to better reporting capabilities and an increase in patterns of child abuse. There was also a continued increase in reported psychological abuse cases, in part because the 1997 Code of Childhood and Adolescence redefined such abuse and increased awareness of it. Abuses appear to be more prevalent among poor, less-educated families. Traditional attitudes and the inclination to treat such crimes as misdemeanors sometimes hamper legal proceedings against those who commit crimes against children.

The Government, police sources, and UNICEF representatives acknowledge that child prostitution is a serious problem (see Section 6.f.). Although no official statistics exist, the PANI has identified street children in the urban areas of San Jose, Limon, and Puntarenas as being at the greatest risk. Estimates of the number of children involved in prostitution vary widely and the only scientific studies have focused on limited areas. An International Labor Organization (ILO) study of 4 San Jose neighborhoods in 1998-99 identified at least 212 minor girls working as prostitutes, but other countrywide estimates are higher. A PANI study estimated that some 40 families in August 2000 supported themselves by "renting" their children to sex tourists. The 1999 Law Against the Sexual Exploitation of Minors specifically penalizes persons who use children and adolescents under age 18 for erotic purposes and makes it a crime to engage in prostitution with minors. An adult who pays for sex with a minor can be sentenced to 2 to 10 years in prison. The Government took steps to enforce this law and has raided brothels and arrested clients. For example, police arrested five men involved in a so-called Costa Rican Association of Pedophiles for sexually exploiting four children. The children were given cocaine and marijuana before they were exploited, and they were to receive about \$21 (5,000 colones) payment for having sex with pedophiles. After the arrest, the children were returned to their families who live in the poorest sections of San Jose. The law provides for prison sentences from 4 to 10 years for those managing or promoting child prostitution. During the year, the authorities brought charges against 9 persons for violating the law and convicted 4 of them; in 2000, charges were brought against 30 persons and 4 were convicted.

The NGO Casa Alianza operates a 24-hour telephone help line that received 240 accusations of exploitation of minors in 2000. In March 2000, the organization made a presentation to the IACHR about what it termed the

growing commercial sexual exploitation of children in the country. Casa Alianza criticized the Government for not providing the PANI with 7 percent of national tax revenue since 1998, as stipulated by the law creating the PANI, and also criticized the Government for the relatively low number of persons actually charged, found guilty, and sentenced for child exploitation.

According to Mario Viquez, Ombudsman for Children's Issues, the PANI receives most of its revenue from a government development fund and budget transfers from various ministries. The 7 percent earmark for the PANI was not included in the government budget. The Government asserts that its fiscal situation does not allow it to include the earmarks in its budget and notes that the total of all legislative earmarks is greater than the Government's revenue. On January 25, four deputies in the Legislative Assembly filed an injunction against the Minister of Finance and the National Treasurer alleging that they had not paid the PANI funds allocated to it under the law on Alcohol and Cigarette Taxes. On May 11, the Constitutional Court required the Government to pay the PANI these revenues. In June the Constitutional Court ordered the Government to pay the PANI funds from the 7 percent earmark. On September 11, Casa Alianza filed criminal charges against the former Finance Minister for failure to comply with the Constitutional Court orders and revenue provisions of the law that created the PANI, and in December it filed a similar complaint against the Finance Minister.

Persons with Disabilities

The 1996 Equal Opportunity for Persons with Disabilities Law prohibits discrimination, provides for health care services, and mandates provision of access to buildings for persons with disabilities. This law is not enforced widely, and many buildings remain inaccessible to persons with disabilities. In July 2000, a government study concluded that only 35 percent of the law's stated goals had been implemented. Nonetheless, a number of public and private institutions have made individual efforts to improve access. In 1999 the PANI and the Ministry of Education published specific classroom guidelines for assisting children with hearing loss, motor difficulties, attention deficit disorder, and mental retardation. In October 2000, the Ministry reported that since 1998 there had been a 20 percent increase in special education services offered throughout the country, and that 116 special education centers had been created.

The Ministry of Education operates a Program for Persons with Disabilities, and in November President Rodriguez's wife received an award from Goodwill Industries for her efforts to support it. The program includes a national resource center that provides parents, students, and teachers with advanced counseling, training, and information services.

Indigenous People

The total population of about 3.8 million includes nearly 40,000 indigenous persons among 8 ethnic groups. Most live in traditional communities on 22 reserves which, because of their remote location, often lack access to schools, health care, electricity, and potable water. The Government, through the National Indigenous Commission, distributed identification cards to facilitate access to public medical facilities in 1999. The Government also built a medical clinic and several community health centers in indigenous areas. The Ombudsman has an office to investigate violations of the rights of indigenous people. In 1999 a group of indigenous persons from Puntarenas challenged the constitutionality of the 1978 Indigenous Law because of their inability to possess private property on the reservation. The Supreme Court's Constitutional Chamber rejected this challenge in January 2000.

Section 6 Worker Rights

a. The Right of Association

The law specifies the right of workers to join unions of their choosing without prior authorization, although barriers exist in practice. About 15 percent of the work force is unionized and approximately 80 percent of all union members are public sector employees. Unions operate independently of government control.

Some trade union leaders contend that "solidarity" associations infringe upon the right of association. Solidarity associations are nondues paying organizations that offer membership services, including credit union programs, matching-fund savings accounts, and low-interest loans; in some instances, employees have access to both trade union membership and solidarity association services.

In 1995 the ILO Committee of Experts (COE) encouraged the Government to approve legislation to allow unions to administer compensation funds for dismissed workers and to repeal labor code provisions restricting the right to strike in certain nonessential public, agricultural, and forestry sectors. The International Confederation of Free Trade Unions reported that the Labor Ministry provided information about newly formed

unions to employers who then encouraged formation of solidarity associations and blacklisted union members. The Labor Ministry denied the reports but acknowledged that solidarity association culture is deeply embedded. During 1999 and 2000, the Labor Ministry received six complaints charging antiunion discrimination. The Labor Ministry provided restitution to aggrieved workers in two cases through administrative mechanisms. Courts resolved the remaining 4 cases; in 3 cases involving 16 workers, they were reinstated to their jobs, and in 1 case involving 3 workers, the court dismissed the complaint.

In 1998 the Rerum Novarum Workers Confederation complained about government noncompliance with commitments to protect worker rights but withdrew the complaint after the Rodriguez administration asked for a reasonable period to demonstrate its commitment to worker rights. Some labor unions did not support the complaint because they believed that it interfered with the administration's national reconciliation process. In August 2000, the Rerum Novarum confederation resubmitted the complaint against the Government. In June that complaint served as the basis for an AFL-CIO petition to remove Costa Rica from the list of beneficiary countries under the U.S. General System of Preferences and the Caribbean Basin Economic Recovery Act. The Government filed its response to the petition in August; a U.S. interagency review process of that petition was under way at year's end.

The Constitution and Labor Code restrict the right of public sector workers to strike. However, in 1998 the Supreme Court formally ruled that public sector workers, except those in essential positions, have the right to strike. Even before this ruling, the Government had removed penalties for union leaders participating in such strikes.

In March 2000, the Supreme Court's Constitutional Chamber clarified the law forbidding public sector strikes. It ruled that public sector strikes may be allowed only if a judge approves them beforehand and finds that "services necessary to the well-being of the public" are not jeopardized. Public sector workers who decide to strike can no longer be penalized by a prison sentence but can face charges of breach of contract.

In March 2000, ICE workers, employees from public hospitals, teachers, students, taxi drivers, and public transportation workers called a general strike that lasted several days to protest the passage of legislation that would have partially opened the ICE to private participation (see Section 2.b.).

There are no legal restrictions on the right of private sector workers to strike, but very few private sector workers belong to unions. Private sector strikes rarely occur, and there were no major private sector strikes during the year.

Unions may form federations and confederations and affiliate internationally.

b. The Right to Organize and Bargain Collectively

The Constitution protects the right to organize. Foreign nationals are expressly prohibited from exercising direction or authority in unions. Specific provisions of the 1993 Labor Code reforms provide protection from dismissal for union organizers and members during union formation. The employer is not obligated to follow any specific procedures to prove grounds for dismissal. The revised provisions require employers who are found guilty of unfair labor practices to reinstate workers fired for union activities. However, the ILO's Committee on Freedom of Association reported in 1999 that harassment still was used to force workers to leave unions, and that other violations of labor legislation continued to occur. In a 1998 incident, a company in the banana industry refused to negotiate with a legitimate union for 3 years. The company eventually fired the union leader and established a solidarity association. The Labor Ministry reported cases from the banking, transportation, and agricultural sectors, in which union leaders fired without cause were restored to their positions with back pay.

There were no new developments during the year in the ILO complaint filed by a union alleging antiunion discrimination in the banana industry, or on the complaint filed by the teachers union.

Trade unions claim that the 1993 reforms have not led to significant improvements because the Government has not enforced the law effectively. The Constitutional Chamber ruled that the National Inspection Directorate must comply with the 2-month time limit for investigations. The ILO has criticized this procedure for giving no guarantee or reparations for damages caused, even if the legal deadlines are respected, since the labor inspectors simply certify the wrongdoing but file no charges. Most cases take up to 2 months to resolve, but some may take longer if the judge decides that an unusual situation merits further investigation and requires witnesses. Delays in processing court rulings are common throughout the judicial branch. Since 1998 the Ministry of Labor has modernized the National Inspection Directorate, to enable it to support worker rights by increasing the authority of regional officers to investigate and process cases of alleged abuse by employers.

These regional offices also establish local forums where government officials, employers, and employees can discuss labor issues. Inspectors have been provided increased opportunities for training and participation in Ministry of Labor administration.

On May 31, a Constitutional Court decree defined the judicial framework for collective bargaining in the public sector. On June 15, the Assembly approved a law permitting public employees to participate in collective bargaining, except in circumstances that would violate existing bylaws or when the employee occupies a managerial position in the government. Private sector unions have the legal right to engage in collective bargaining. However, collective bargaining is rare--there were fewer than 20 collective agreements in force in 2000. Collective bargaining has diminished as a result of several factors, including lengthy delays in court processing of unfair dismissal suits and solidarity associations in effect displacing trade unions. Solidarity associations are barred by law from negotiating work conditions, salaries, and benefits.

All labor regulations apply fully to the country's nine export processing zones (EPZ's). The Labor Ministry oversees labor regulations within the EPZ's. It reported that in September, it had 1 inspector for every 8,526 workers, compared with 1 inspector for every 9,000 workers in 2000, and 1 for every 30,000 in 1999.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor; however, the country is a transit and destination country for trafficked persons (see Section 6.f.). Laws prohibit forced and bonded labor by children, and the Government generally enforces this prohibition effectively; however, there have been reports of girls trafficked to the country for sexual exploitation (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment

The Constitution and the Labor Code provide special occupational protection for minors and pregnant and nursing women, and establish a minimum working age of 15 years. Adolescents between the ages of 15 and 18 can work for a maximum of 6 hours daily and 36 hours weekly with special permission from the PANI, while children under the age of 15 cannot work legally. The PANI, in cooperation with the Labor Ministry, generally enforces these regulations in the formal sector. Due to limited government resources for enforcement, some children work on the fringes of the formal economy in violation of these limits. Youths under the age of 18 may not work in the banana industry. According to PANI estimates for 2000, 19 percent of children between the ages of 5 and 17 were employed in domestic tasks, while 15 percent worked outside the home. According to the National Institute of Census and Statistics, in 1998 147,000 (15.4 percent) of the country's 954,000 children were employed. Of this working population, 66,762 (45 percent) were under the age of 18. Of the employed children, 39 percent worked 57 hours per week, which is 21 hours above the 36 hours a week permitted by law. The survey showed that children between the ages of 5 and 11 are paid only 11.6 percent of the minimum wage, those between the ages of 12 and 14 are paid 21 percent of the minimum wage, and the group between the ages of 15 and 17 is paid 56 percent of the minimum wage.

With help from the ILO, the Labor Ministry is working to phase out child labor and has asked employers of children to notify the Ministry of such employment. The National Directive Committee for the Progressive Eradication of Child Labor and Protection of Adolescent Laborers includes representatives from the PANI, the Ministry of Labor, the Ministry of Justice, the Ministry of Public Security, the Ombudsman's Office, UNICEF, the ILO, and area universities. In 1999 the Committee conducted an aggressive public awareness campaign as part of its national plan, which continued at a lower level during the year. The campaign addressed child labor and explained existing legislation to audiences of different age groups. Committee members were also involved in a consultative process to encourage ratification of ILO Convention 182 on elimination of the worst forms of child labor, which the Legislative Assembly approved on July 30. The Ministry of Labor maintains an Office for the Eradication of Child Labor, which cooperates with projects sponsored by the ILO, U.N. Development Program, and other entities. Nonetheless, child labor remains an integral part of the informal economy, particularly in small-scale agriculture and family-run microenterprises selling various items, which employ a significant proportion of the labor force. Child prostitution is a serious problem (see Sections 5 and 6.f.). The law prohibits forced and bonded labor by children, and the Government enforces this prohibition effectively (see Section 6.c.).

e. Acceptable Conditions of Work

The Constitution provides for a minimum wage. A National Wage Council, composed of three members each from government, business, and labor, sets minimum wage and salary levels for all sectors. Monthly minimum wages for the private sector, last adjusted on July 1, range from \$144 (47,982 colones) for domestic employees to \$699 (232,546 colones) for some professionals. Public sector negotiations, based on private sector minimum wages, normally follow the settlement of private sector negotiations. The Ministry of Labor

effectively enforces minimum wages in the San Jose area, but does so less effectively in rural areas. Especially at the lower end of the wage scale, the minimum wage is not sufficient to provide a worker and family with a decent standard of living.

The Constitution sets workday hours, overtime remuneration, days of rest, and annual vacation rights. Although often circumvented in practice, it also requires compensation for discharge without due cause. Generally, workers may work a maximum of 8 hours during the day and 6 at night, up to weekly totals of 48 and 36 hours, respectively. Nonagricultural workers receive an overtime premium of 50 percent of regular wages for work in excess of the daily work shift. However, agricultural workers do not receive overtime pay if they voluntarily work beyond their normal hours. Little evidence exists that employers coerce employees to perform such overtime.

A 1967 law on health and safety in the workplace requires industrial, agricultural, and commercial firms with 10 or more workers to establish a joint management-labor committee on workplace conditions and allows the Government to inspect workplaces and to fine employers for violations. Most firms subject to the law establish such committees but either do not use the committees or do not turn them into effective instruments for improving workplace conditions. Due partly to budgetary constraints, the Labor Ministry has not fielded enough labor inspectors to ensure consistent maintenance of minimum conditions of safety and sanitation, especially outside San Jose. However, Labor Ministry programs to hire additional inspectors and enhance inspector-training programs have resulted in some progress. While workers have the right to leave work if conditions become dangerous, workers who do so may jeopardize their jobs unless they file written complaints with the Ministry of Labor.

f. Trafficking in Persons

The law prohibits trafficking in women for the purpose of prostitution, and in 1999 a statute went into effect that strengthens this prohibition; however, Costa Rica is a transit and destination country for trafficked persons. Isolated cases of trafficking have involved persons from Africa, Asia, Bolivia, China, Colombia, Cuba, the Dominican Republic, and the Middle East. There also have been reports of girls from the Philippines being trafficked to the country for the purpose of sexual exploitation.

In November 2000, the Government arrested a known alien smuggler and accomplices. The smuggler was arrested for falsification of documents and bribery of government officials; a mid-level official of the General Directorate for Immigration was also arrested. The authorities charged the immigration official with document falsification; at year's end, he remained in detention pending trial.

The Criminal Code prohibits trafficking in women and minors for the purpose of prostitution, but it does not address all severe forms of trafficking. There is a government Inter-Ministerial Group on Trafficking to address the problem in the country. Each participating ministry reportedly has incorporated preventive trafficking measures into its ministerial agenda. Child prostitution is a problem (see Section 5), and the Government supports prevention programs to combat sexual exploitation of minors and trafficking. There are limited formal mechanisms specifically designed to aid trafficked victims; however, the Government does offer indirect assistance to child victims of trafficking. Victims are not granted temporary or permanent residence status and often are deported immediately to their country of origin.

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